



MATTHEW C. MACLEAR
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July 16, 2019

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Via Certified Mail

Richard Beuke
Chief Executive Officer
Vitro Flat Glass LLC
400 Guys Run Road
Cheswick, PA 15024

Javier Gutierrez (Plant Manager)
3333 South Peach Avenue
Fresno, CA 93725

Registered Agent for Vitro Flat Glass LLC
c/o Capitol Corporate Services, Inc. #C1990324
455 Capitol Mall Complex, Suite 217
Sacramento, CA 95814

RE: Notice of Intent to Sue for Violations of the Clean Air Act at the Vitro Flat Glass LLC Plant in Fresno, California

Dear Mr. Beuke, Mr. Gutierrez, and Registered Agent:

We are writing, on behalf of the Association of Irrigated Residents ("AIR"), to provide you with notice of intent to file suit for ongoing violations of the Clean Air Act ("Act") at the Vitro Flat Glass LLC located at 3333 S. Peach Avenue, Fresno, CA 93725. This notice is being provided pursuant to the Clean Air Act, 42 U.S.C. § 7604(b).

Citizens are entitled to bring suit in order to enjoin violations of an emission standard or limitation under the Act. 42 U.S.C. §7604(a). In accordance with §7604(a)(1) of the Act, we are writing to notify you that, at any time sixty (60) days after this letter's postmarked date, AIR intends to file suit in federal district court to enjoin violations described below and to ensure further compliance. Additionally, AIR will seek recovery of attorney fees and costs, and any other appropriate relief.

I. Violations of CEMS Monitoring Requirements Contained in the Vitro Flat Glass Plant's Title V, Federal Operating Permit

The Vitro Flat Glass Plant ("Vitro") 208 MMBTU/HR oxy-fuel fired float glass furnace has repeatedly violated and continue to violate requirements in Vitro's Title V permit to operate, regulating the continuous emissions monitoring system ("CEMS"). (*See* 40 CFR §§ 51, 60.13, 60.7, 60 (Appendix B), 60 (Appendix F), District Rule 1080.) According to the EPA, "A continuous emission monitoring system (CEMS) is the total equipment necessary for the determination of a gas or particulate matter concentration or emission rate using pollutant

analyzer measurements and a conversion equation, graph, or computer program to produce results in units of the applicable emission limitation or standard.”¹ The information recorded by these systems is crucial to determining whether there has been exceedances of emissions limitations, and thus, whether Vitro is in compliance with its Title V Permit. (See Permit Units C-948-11-16 and 11-17, condition 35: “Any emissions in excess of the limits imposed by conditions in this permit, as measured by the CEMS constitutes a violation of District Rules and Regulations and shall be reported by the operator to the APCO within 96 hours. [District Rule 1080] Federally Enforceable Through Title V Permit.”) Vitro’s Title V permit requires that it properly install a CEMS that monitors for NO_x, CO, SO_x, and opacity in accordance with specified performance requirements, and to properly maintain and produce CEMS records to the APCD. (See Permit Units C-948-11-16 and 11-17, conditions 29-38.)

San Joaquin Valley APCD Rule 4354 Section (5.9) requires CEMS for NO_x, CO, volatile organic compounds, and oxides of sulfur (SO_x) from Glass Melting Furnaces. Section (6.2.3) requires the facility operator to maintain records and make them available or submit them on request to the APCO, ARB, or U.S. EPA.² These requirements were incorporated into the SIP pursuant to 78 FR 6740.

We are notifying you of a total of separate violations of the Vitro Glass CEMS requirements occurring between September 2015 and February 2018.

- Vitro reported 24 violations of its Title V Permit to Operate CEMS requirements for its 208 MMBTU/HR float glass furnace; these violations led to inadequate emissions data for approximately 60 days.

Each instance of inadequate CEMS data constitutes a separate violation of Vitro’s Title V Permit.

A chart summarizing the number of violations per unit can be found in **Attachment A**. Because it would be impossible to know whether and by how much Vitro has exceeded its emissions limits without this information, unless and until these violations cease, they will continue to harm the health, aesthetic, and economic interest of AIR and its members. These violations are ongoing, and the harm is traceable to the violations. Redressing the violations will redress the harm.

II. Offer to Review Information

To the extent that you have evidence that shows, contrary to the allegations in this letter, that Vitro is in full compliance with applicable requirements, we urge you to provide it to us so that we may potentially avoid, or at least limit, litigation of these issues.

¹ “EMC: Continuous Emissions Monitoring Systems - Information and Guidelines,” <https://www.epa.gov/emc/emc-continuous-emission-monitoring-systems> (Accessed January 11, 2019.)

² “California Infrastructure SIP,” <https://www.arb.ca.gov/planning/sip/infrasip/docs/i-sip.pdf> (Accessed January 11, 2019.) (Page 24.); (See also, “Rule 4354 – Glass Melting Furnaces,” <http://www.valleyair.org/rules/currentrules/R4354%20051911.pdf> (Accessed January 14, 2019.)

III. Conclusion

AIR intends to file suit to enjoin the violations described above and to ensure future compliance, recover attorney fees and costs of litigation, and obtain other appropriate relief. We would be happy to discuss the allegations in this notice and look forward to hearing from you if you believe any of the foregoing information to be in error, wish to discuss the exchange of information consistent with the suggestion above, or would otherwise like to discuss settlement or any aspect of this matter prior to initiation of litigation. Please contact AIR through its counsel, Matthew Maclear, at (415) 568-5200.

Sincerely,

A handwritten signature in dark ink, appearing to read "Matthew Maclear", written over a horizontal line.

Matthew C. Maclear
Aqua Terra Aeris Law Group
On behalf of Association of Irrigated Residents

Copy To:

Andrew Wheeler
EPA Administrator
Environmental Protection Agency
1200 Pennsylvania Avenue, N.W.
Washington, D.C. 20004

Mike Stoker
Region 9 EPA Administrator
75 Hawthorne St.
San Francisco, CA 94105

Richard Corey
Executive Officer
California Air Resources Board
P.O. Box 2815
Sacramento, CA 95812

Governor Gavin Newsom
1303 10th Street, Suite 1173
Sacramento, CA 95814

Vitro Flat Glass LLC
Attachment A

	Breakdown #	Date	Duration	Description
1	C-2015-5-12	5/21/2015	7 hours 50 minutes	NOx, SOx, and CO analyzer failure
2	C-2015-10-18	10/10/2015	10 hrs 20 minutes	CEMS calibration failure (Opacity)
3	C-2015-10-37	9/23/2015	1 hour 40 minutes	Opacity monitor failed calibration
4	C-2015-10-38	9/28/2015	3 hours 40 minutes	Opacity monitor failed calibration
5	C-2015-10-44	10/28/2015	4 hours 46 minutes	CEMS calibration failures (CO, NOx, Sox, Opacity)
6	C-2016-1-1	1/1/2016 - 1/2/2016	1 day 7 hours	Failed NOx analyzer sample pump
7	C-2016-2-6	12/18/2015- 1/6/2016	20 days	Failed to maintain NOx, SOx, and CO CEMS
				Invalid NOx data: Dec. 18 -Jan 6
				Invalid SOx data: Dec. 29-31, Jan. 2-6
8	C-2016-4-8	4/7/2016- 4/15/2016	8 days	Malfunction of CEMS DAS; emissions results reported through DAS are not reflective of actual stack conditions; the CEMS appears to be operating correctly, however the DAS is not
9	C-2016-5-5	5/1/2016- 5/4/2016	3 days 14 hours	CEMS calibration failures (CO)
10	C-2016-7-8	7/10/2016	1 day 7 hours	CEMS DAS (Data Acquisition System) Mod-Bus port plug failed; failed NOx, CO, SOx calibration
11	C-2016-11-6	4/2/2016- 4/6/2016	4 days	CEMS calibration failure (CO)
12	C-2017-1-10	1/18/2017	2 days 20 hours	CEMS reporting incorrect values after resuming monitor following emergency variance
13	C-2017-1-17	01/18/2017- 01/25/2017	6 days 17 hours	Failed to maintain and operate opacity monitor
14	C-2017-1-19	5/4/2016	13 hours 41 minutes	CEMS calibration failures (NOx, SOx)
15	C-2017-1-20	5/6/2016	4 hours 58 minutes	CEMS calibration failures (CO)
16	C-2017-1-22	5/8/2016- 5/13/2016	5 days 2 hours	CEMS calibration failures (CO, NOx, SOx)
17	C-2017-1-24	1/29/2017	1 day 3 hours	CEMS calibration fail (Opacity)
18	C-2017-1-27	5/18/2016 & 5/31/2016	2 days	Failed CEMS calibration (NOx, SOx)
19	C-2017-8-20	8/28/2017	15 hours, 45 minutes	Condensed water found in sample lines for the CEMS, affecting all analytics. Analyzer readings are erratic and showing erroneously high readings for CO, NOx, SOx
20	C-2017-11-5	9/15/2017	13 hours	Furnace exhaust flow meter stopped working, affecting the calculation of the pollutant emissions rates in the CEMS
21	C-2017-12-8	12/21/2017	1 day	CEMS didn't calibrate properly. Cal-gas check valve failed
22	C-2018-1-18	12/26/2017	1 hour	CEMS stopped recording data for one hour. PLC stopped working after connecting to new communication device
23	C-2018-2-14	2/22/2018	5 hours 15 minutes	CEMS calibration failures (NOx, SOx, CO)
24	C-2018-6-13	5/2/2018	4 hours 8 minutes	Daily calibration check failed to run, when it did CO calibration failure

